

1 JUDGE THOMAS O. RICE
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10
11 Attorney for Spokane County Defendants
12
13
14 JAMES LEIGHTY, No. 2:24-cv-00165-TOR
15 Plaintiffs,
16 vs.
17 SPOKANE COUNTY, a municipal
18 corporation; SHERIFF JOHN
19 NOWELS, an individual; and
20 SPOKANE COUNTY
21 SHERIFF'S OFFICE, a subdivision
22 of a
23 municipal corporation,
24 Defendants.

DECLARATION OF MARK
GREGORY

25 MARK GREGORY declares under penalty of perjury of the laws of the
26
27 State of Washington that the following statement is true and correct:
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30

DECLARATION OF MARK GREGORY - page 1

1. That I am a Corporal with the Spokane County Sheriff's Office ("SCSO"). I have been a Corporal since 02/2019. I have been with the SCSO since 10/2001 and in law enforcement since May 1994.

2. Part of my job duties include posting to and monitoring the SCSO Facebook page which has been active since 2010. FB alone takes me several hours per week depending on page traffic.

3. There are two other members of the SCSO that may also post and monitor the SCSO Facebook page.

4. The Facebook page allows users to comment on posts we have placed on the page.

5. Spokane County has implemented a Social Media Disclaimer page (*see Attachment Exhibit 1*).

6. That Disclaimer specifically notes that “SCSO reserves the right to delete postings that are inconsistent with the policies in this disclaimer, including, but not limited to, comments that contain the following prohibited words, text or information:

- Defamatory, vulgar, obscene, abusive, profane, threatening, hateful, intimidating, or otherwise offensive language.
 - Sexual content or links to sexual content.

DECLARATION OF MARK GREGORY - page 2



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- 1 • Malicious or offensive comments based on gender, race, class,
2 ethnicity, national origin, political affiliation, religion, sexual
3 orientation, disability or other classifications.
4
- 5 • Solicitations or advertisements, including promotion or
6 endorsement of any financial, commercial, or non-governmental
7 agency.
8
- 9 • Attempts to defame or defraud any individual(s) or organizations.
10
- 11 • Posts or comments in support of or opposition to political
12 campaigns or ballot measures.
13
- 14 • Viruses or similar harmful programs, including spam and similar
15 content.
16
- 17 • Proprietary information or intellectual property that is posted
18 without the approval of the owner. Copyrighted or trademarked
19 images or graphics. Imagery not owned by the user.
20
- 21 • Comments on matters unrelated to activities of Spokane County
22 or Spokane Valley, associated boards, committees or programs,
23 policies, operations, or general areas of responsibility and
24 representation.
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DECLARATION OF MARK GREGORY - page 3

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- 1 • Information that may compromise the safety or security of the
2 public, public officials, or public systems.
3
4 • Information that violates a local, state, or national law or suggests
5 or encourages illegal activity.

7 7. The disclaimer also points out to its users another important component
8 to the SCSO which is that the “comments are important to us *and others*
9 *who read these pages....*” This factor is also important in my analysis
10 of inappropriate comments. Mr. Leighty’s post from May 8, 2024 (Exh
11 16, ECF, 4-1, pg. 109) is a perfect example of why that is a
12 consideration. Not only was Mr. Leighty’s comment completely off-
13 topic, but it also appears to have impacted a murder victim’s daughter,
14 at least enough that she felt compelled to respond to Mr. Leighty “what
15 does that have to do with my father’s murderer?”
16

17 8. That I have generally followed the same practice since becoming
18 responsible for the monitoring of the FB page. If a statement is
19 observed that is defamatory against either a deputy or the SCSO I will
20 hide the post. I understand the definition of defamation to mean that it
21 is an untrue statement. Regarding Mr. Leighty’s comments he has
22 offered in his Declaration, I specifically found them to be untrue. I
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1 consider the statements to be “untrue” when there has been an
2 investigation and a finding by an outside agency and/or the prosecuting
3 attorney’s office of no fault. With respect to Deputy Hilton (infra), SPD
4 did find that there was probable cause, but it is still being reviewed by
5 prosecutors. Unless he is charged or exonerated a statement of
6 conclusion as fact is premature and therefore untrue. Deputy Hilton and
7 any officer who is under investigation is entitled to the same
8 constitutional right to be “innocent until proven guilty” as any citizen.
9
10
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12

13 9. I have hidden other comments, not just J.D. Leighty’s, for not following
14 the rules set forth in the Disclaimer.
15

16 10. That each of Mr. Leighty’s posts as attached to exhibits in his
17 Declaration were hidden for failing to follow the rules of the disclaimer
18 or by FB filters/practice as noted below:
19
20

21 a. Exh. No. 1: SCSO posted a new hire announcement. “Spokane
22 County welcomes a New Lateral Deputy.” Exh. No. 2: Mr.
23 Leighty posted a comment “Holy cow! Are you kidding me... She
24 put herself in close proximity of Steven when he was having a
25 mental health crisis...” (*See ECF 4-1, p. 65*)
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DECLARATION OF MARK GREGORY - page 5



i. This post is factually inaccurate. There was an investigation completed and all three of the involved officers were found to have used justifiable force prior to her employment with SCSO. This was publicly stated on April 1, 2019, in local media sources. (*see e.g., Attachment Exhibit 2, KREM2 article, No Charges for 3 Officers involved in fatal Sept. 2018 shooting in Cheney*). This matter was closed 2 years before Mr. Leighty's March 17, 2021, post defaming Nicole Burbridge. The information could easily have been determined prior to posting.

b. Exh. No. 3: On March 23, 2021, SCSO posted "For Immediate Release, No Criminal charges in December 2020 Officer Shooting." The release provided background of the facts and the finding that Sgt. Justin White was justified in his use of lethal force against a female. Mr. Leighty posted a lengthy comment defaming Sgt. White, alleging among other things "Officer (sic) Justin White failed at so many levels at keeping our community safe...He allowed a person who was experiencing a mental health issue access to a secured area...." *See ECF 4-1, p. 71*

1 i. This post is factually inaccurate and was hidden because it
2 violated our FB Disclaimer and provided inaccurate and
3 misleading conclusions stated as fact. It was investigated
4 by an outside agency and reviewed by the prosecuting
5 Attorney. (*See Attachment Exhibit 4*)
6
7

8 c. Exh 5: SCSO posted “Gang Associated Violence Press
9 Conference,” dated March 8, 2021. (*ECF 4-1, p. 80*) In response
10 to this post, Mr. Leighty posted “Do you just keep these in a folder
11 called “Deflect?” Let’s get back to the homeowner your deputy
12 shot after that homeowner called for ^ help regarding a
13 prowler...” (*ECF 4-1, p. 80*)
14
15

16 i. This post was hidden because it was not related to the post,
17 provided inaccurate and misleading information and
18 violated our FB Disclaimer. (*See Attachment Exhibit 5*)
19
20

21 d. Exh 5: “Several Active SCAMS – Don’t be duped” was posted.
22 (The date is undetermined in Mr. Leighty’s exhibits.) In response
23 to this post regarding scams, Mr. Leighty posted another comment
24 related to Nicole Burbridge’s hiring from Exhibit 1. “Can you
25 address how many officer involved shootings your new hire
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1 Nicole Burbridge has been involved in. I know she was
2 responsible for the death of Steven Anderson....”
3

4 i. This post was hidden because it was off-topic, defamatory,
5 misleading and a violation of our FB Disclaimer.
6

7 e. Exh 6: “Here’s a video that the Greenfield Police Department in
8 Wisconsin shared...” dated October 6, 2021. (*ECF 4-1, p. 89*)
9 The post stated “Notice the officers do not just “open fire” and
10 “murder people” as some activists and those in the national media
11 want you to believe. They tell him multiple times to show
12” Mr. Leighty commented “Here is the problem, you don’t
13 hold bad cops accountable. For instance, Deputy Wallace flat-out
14 murdered Ethan Murray in the Spokane Valley on 5/4/2019....”
15

16 i. This post was hidden because it was defamatory, provided
17 inaccurate and misleading information and violated our FB
18 Disclaimer. (*See Attachment Exhibit 3*)
19

20 f. Exh 8 & 9: It is impossible to determine what the post is from Mr.
21 Leighty’s Declaration but upon review of the SCSO Facebook
22 page it refers to a post by the Sheriff regarding the Sgt. Hilton
23

1 investigation and an update saying it was now under an internal
2 investigation. (Exh 8 and 9 refer to the same post)
3

4 i. This post was hidden because it was off-topic and
5 defamatory. Sgt. Hilton is on leave and has not been
6 formally charged by an outside agency although probable
7 cause was established. (See Attachment *Exhibit 6*) Further,
8 Spokane County would not start an internal investigation
9 until a criminal investigation was completed so as to avoid
10 any conflicts. This criminal investigation was completed
11 by the City of Spokane Police Department. The length of
12 time to complete is not within the control of the SCSO nor
13 is SCSO involved per Washington State law.
14

15 g. Exh. 10: SCSO posted “Spokane Valley Investigative Unit
16 Detectives Recover Large Smorgasbord of Illegal Drugs and
17 Cash” Mr. Leighty responded off topic “How did you already
18 arrest the suspect? According to Sheriff Nowels, you have to
19 conduct a thorough, complete and unbiased investigation into the
20 suspect’s actions”
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i. This post was hidden because it was off-topic, defamatory as Hilton is on leave and has not been charged, misleading and a violation of our FB Disclaimer. Sgt. Hilton is on leave and has not been formally charged by an outside agency although probable cause was established. Further, Spokane County would not start an internal investigation until a criminal investigation was completed so as to avoid any conflicts. This criminal investigation was completed by the City of Spokane Police Department. The length of time to complete is not within the control of the SCSO and it is not involved in the investigation.

h. Exh 12: It is impossible to determine what the post is from Mr. Leighty's Declaration. However, according to the Facebook page it is a post, dated February 21, 2024 "Update: Sheriff Nowels' Statement regarding today's investigative Conclusion." It was in response to the SPD investigation into an incident at Terrace View Park on August 14, 2023.... "SPD found probable cause to charge [Sgt. Hilton] with Assault 2nd degree, and the case has been forwarded to the Spokane County Prosecutor's Office for

1 review....” Mr. Leighty responded “...Now? Why weren’t you
2 doing an investigation already? It was obvious from the
3 beginning that what Hilton did was wrong....”
4

5 i. This was hidden because it stated that it was ‘obvious from
6 the beginning that what Hilton did was wrong.” This is a
7 conclusion of the facts that was false because the
8 independent criminal investigation by SPD was not
9 completed in February 2024. Only upon completion of a
10 critical incident investigation is an internal investigation
11 initiated. This is recommended “best practice” to avoid
12 conflicts and/or potential tainting of the independent
13 criminal investigation conducted by SPD, at the request of
14 Sheriff Nowels in the instance.
15

16 i. Exh. 14: “Deputies Response to Reported Shooting” the post is
17 about a shooting at E. 547th and Palouse highway. It was an initial
18 notification on 03/20/24 at approximately 12:04 pm of an ongoing
19 incident and to alert the public that they did not see this as a threat
20 to the public at large. Two additional updates were added, at
21 approx. 4:46 pm the same day announcing arrests and two days
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1 later providing the suspect's bond information. Mr. Leighty
2 responded about the length of time on two investigations. The
3 first involved two officers in a lethal force involving Robert
4 Bradley. The other was about the Sgt. Hilton investigation and
5 waiting to start the internal investigation.

6 i. This comment was hidden because it was off-topic,
7 defamatory, misleading, and a violation of our FB
8 Disclaimer. Robert Bradley did not even involve SCSO
9 deputies but was rather Spokane Police Department.
10 Regardless, the officers involved in the Robert Bradley
11 incident were also investigated and cleared. (See
12 *Attachment Exhibit 7*)

13 j. Exh. 16: "Update: Gary Ault Sentenced to Life without Parole"
14 This was an update to a verdict that was obtained following a
15 murder on December 20, 2022. Mr. Leighty responded with
16 "When will your deputy be charged with aggravated assault on the
17 elderly man that he pulled out of the car and beat for resting in a
18 park parking lot after driving a long ways?" The daughter of the
19 murder victim responded, "What does this have to do with my

1 fathers murdered?” Mr. Leighty again responded with “...I just
2 ask the sheriff to have the same due diligence with crimes
3 committed by his own deputies. We have seen his deputies kill
4 and beat innocent unarmed people and they get away with it....”
5
6

7 i. This comment was hidden because it was off-topic,
8 defamatory, misleading, appeared offensive to a murder
9 victim’s daughter, and a violation of our FB Disclaimer.
10
11

12 11.Mika Rothman’s statements in her Declaration appear to make many
13 assumptions. I am unaware of how a 3rd party would be able to conclude
14 as stated as fact what statements were hidden and/or deleted by SCSO or
15 Facebook. In other words, I can definitively answer as set forth above
16 that those posts proffered in Mr. Leighty’s Declaration were hidden by
17 me for failure to follow SCSO rules. However, SCSO does not have the
18 ability to control or revise Facebook’s rules/policies which may hide
19 comments if a responder’s comment is hidden for any number of reasons,
20 including hiding/deleting by the individual Facebook account holder.
21
22

23 25 DATED this 13 day of June 2024.
24
25

26
27
28 Corporal Mark Gregory
29 Corporal Mark Gregory (Jun 13, 2024 18:02 PDT)
30

 MARK GREGORY

 30 DECLARATION OF MARK GREGORY - page 13

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CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Braden Pence
Mika K. Rothman
Joseph R. Shaeffer
Email: bradenp@mhb.com
Email: mikar@mhb.com
Email: joe@mhb.com

Savannah Youmans, Legal Assistant

DECLARATION OF MARK GREGORY - page 14



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2024-6-13 Dec of Mark Gregory-Info Provided (v4) FINAL (2)

Final Audit Report

2024-06-14

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